REMARKS/ARGUMENTS

Applicants respond herein to the Final Office Action issued on July 21, 2009.

Claims 1, 5-8, 10-13, 15-27, 30-38, 40-49, 51-52, 54-59, 62-74, 78-79 and 82-110 are pending in the Application. All pending claims were rejected in the Office Action. Applicants respectfully disagree and request reconsideration of the rejections.

Claims 1, 5-8, 10-13, 15-19, 21-22, 31-40, 25-27, 52, 59, 62-65, 67-68, 70, 88, 91-96 and 103-110 were rejected in the Office Action under 35 U.S.C. 103(a) as being unpatentable over Friday (7,260,408), in view of Nakagawa (2006/0056855). Claims 20, 23-24, 30, 87 and 89-90 were rejected under 35 U.S.C. 103(a) as being unpatentable over Friday, in view of Nakagawa, and further in view of the Examiner's Official Notice. Claims 41, 43-45, 71-74 and 97-98 were rejected under 35 U.S.C. 103(a) as being unpatentable over Friday, in view of Nakagawa, and further in view of Beeson (5,396,543). Claims 42, 49 and 51 were rejected under 35 U.S.C. 103(a) as being unpatentable over Friday, in view of Nakagawa and Beeson, and further in view of Rieser (2001/0034223). Claims 47-48 and 78-79 were rejected under 35 U.S.C. 103(a) as being unpatentable over Friday, in view of Nakagawa, and further in view of Rieser. Claims 54, 55-58, 82 and 83-86 were rejected under 35 U.S.C. 103(a) as being unpatentable over Friday, in view of Nakagawa and Rieser, and further in view of Papadimitriou (6,385,458). Finally, Claims 99-102 were rejected under 35 U.S.C. 103(a) as being unpatentable over Friday, in view of Nakagawa, and further in view of Ryan (2005/0109841).

Request to Withdraw Finality of the Office Action

As can be seen from above, in rejecting the claims of the present Application, the Examiner relied in part on Nakagawa. Applicants respectfully submit that Nakagawa is presumptively not a proper prior art for the claims of the present Application. Specifically, 35 U.S.C. 102 states, in relevant parts, as follows:

> A person shall be entitled to a patent unless -
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> (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for patent, or

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of the application for patent in the United States, or

(e) the invention was described in - (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for the purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language

The present Application was filed with the USPTO on September 1, 2006 under 35 U.S.C. 371 from PCT/JP2005/003595, which was filed on March 3, 2005 claiming priority to three Japanese Applications: JP2004-0458524, filed March 3, 2004; JP2004-311977, filed October 27, 2004; and JP2005-055961, filed March 1, 2005. Certified translations of these documents are enclosed. The cited Nakagawa reference was published on March 16, 2006 from an application filed with the USPTO under Section 371 on September 29, 2005 claiming priority to PCT/JP03/13539 filed on October 23, 2003.

Consequently, contrary to the requirements of Section 102(a), Nakagawa, which was published on March 16, 2006, did not describe the invention in a printed publication before the date of invention of the present Application that is at least as early as one of the three Japanese Applications. Further, contrary to the requirements of Section 102(b), Nakagawa was not published more than one (1) year prior to the PCT filing date of the present Application (i.e., March 3, 2005) or even more than one year prior to the USPTO filing date of Septemebr 1, 2006. Finally, contrary to the requirements of Section 102(e), Nakagawa was not published in the English language from an application which was filed prior to the date of invention of the present Application. Specifically, Nakagawa's effective filing date for purposes of 102(e) is the USPTO filing date of September 29, 2005 (because PCT/JP03/13539 was filed in Japanese), which is after

the date of invention of the present Application that is at least as early as one of the three Japanese Applications.

MPEP 706.07 requires that "[b]efore final rejection is in order a clear issue should be developed between the examiner and applicant." No such clear issue can be developed where the cited reference is not a proper prior art under 35 U.S.C. 102.

Since §119 was created to accord foreign originated applications earlier filing dates, this application presumptively has an earlier date and the cited reference should not have been applied to render a final rejection. Accordingly, withdrawal of the finality of the Office Action as citing an improper prior art reference is respectfully requested.

Response to Claim Rejections Under 35 U.S.C. 103(a)

Claims 1 and 59 recite a system and method, respectively, for detecting a position of a terminal. As illustrated in Fig. 1 of the Application, the system includes an illumination device (103), which is communicably connected to the terminal (101-104) such that the illumination device transmits a signal to the terminal. The signal includes a unique information which is received and extracted by the terminal (101-104). The system further includes a position estimation device (102-109-110) communicably connected to the terminal and receiving an illumination installation position information from the terminal. The illumination installation position information received by the position estimation device from the terminal includes the unique information and a position information indicating the installation position of the illumination device in association with each other. Finally, the position estimation device estimates a position of the terminal based on the illumination installation position information and the unique information received by the position estimation device from the terminal.

The Examiner stated in the present Office Action:

> Regarding Friday not teaching estimating of a position of the infrastructure radio transceivers, the position that is estimated is that of the wireless node, no that of the infrastructure radio transceiver, since the limitation calls for estimating the position of a terminal, as indicated by Column 11, lines 1-7.

See, Final Office Action of July 21, 2009, page 41.

However, in the Office Action of December 19, 2008, the Examiner stated:

> A radio frequency transceiver 58 receives, then transmits positioning information received from another radio transceiver to a wireless node location module 59 (Column 10, lines 9-13), where a radio transceiver serves the purpose of the terminal, which is to extract unique information from the signals it receives and transmit said unique information to said wireless node location module.
> See, Office Action of December 19, 2008, page 42.

Accordingly, while the December 19th Action indicates that radio transceivers 58 of Friday are equivalent to the Applicants' limitation of "the terminal", the July 21st Action implies that the wireless node 56 of Friday is equivalent to the same limitation. Therefore, Applicants respectfully request the Examiner to state on the record which element of Friday he considers to be equivalent to this limitation of Applicants' claims.

Moreover, Claims 1, 59 and 78 clearly require that it is the same element, i.e., "the terminal", which is "communicably connected to the illumination device and configured to extract the unique information from the signal transmitted from the illumination device" and whose position is estimated by the position estimation device. Therefore, if the wireless node 56 of Friday is considered to be equivalent to "the terminal" limitation, then Friday does not disclose the limitations of Claims 1, 59 and 78 requiring that the terminal is "communicably connected to the illumination device and configured to extract the unique information from the signal transmitted from the illumination device" and that the position estimation device is "communicably connected to the terminal and receiving the unique information from the terminal." If, on the other hand, the radio transceivers 58 are considered to be equivalent to "the terminal" limitation, then Friday does not disclose the limitation of Claims 1, 59 and 78 requiring that the position estimation device is "configured to estimate a position of the terminal." Finally, nothing in Friday either teaches or suggests that the radio transceivers 58 and wireless node 56 can be implemented as a single element.

Additionally, as explained above, the secondary reference Nakagawa is not a proper prior art to the claims of the present Application. None of the other cited references remedies the above deficiency of Friday. Therefore, Claims 1, 59 and 78 are allowable over the cited prior art.

Claims 5-8, 10-13, 15-27, 30-38, 40-49, 51-52, 54-58, 62-74, 79 and 82-110 depend directly or indirectly from Claims 1, 59 and 78. Therefore, Claims 5-8, 10-13, 15-27, 30-38, 40-

49, 51-52, 54-58, 62-74, 79 and 82-110 are allowable over the cited prior art at least for the same reasons as Claims 1, 59 and 78 and, further, on their own merits.

Favorable reconsideration of the rejections and allowance of all pending claims is respectfully requested.

Accordingly, the Examiner is respectfully requested to reconsider the application, allow the claims as amended and pass this case to issue.

Respectfully submitted,

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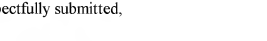

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